

RENDERED: SEPTEMBER 2, 2005; 10:00 A.M.  
NOT TO BE PUBLISHED

# Commonwealth Of Kentucky

## Court of Appeals

NO. 2004-CA-001296-MR

CHARLES M. WOODS

APPELLANT

v. APPEAL FROM CLARK CIRCUIT COURT  
HONORABLE WILLIAM T. JENNINGS, JUDGE  
ACTION NO. 04-CR-00026

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: COMBS, CHIEF JUDGE; HENRY AND TACKETT, JUDGES.

TACKETT, JUDGE: Charles Woods appeals from an order of the Clark Circuit Court denying his motion to suppress evidence. He claims that he was subjected to a warrantless seizure of his person without probable cause. We disagree, and affirm the trial court's decision.

On March 23, 2004, Woods was walking alongside a street in Winchester at 1:00 a.m. when Officer Thomas Beall stopped to give him a ride home. Because Woods gave differing accounts of his reason for being on foot at that hour, Beall ran a check for outstanding warrants which revealed that Woods was wanted on a Fayette County warrant. At that point, Beall informed Woods that he was under arrest and transported him to jail. Immediately after leaving Woods with the jailer, Beall checked the back seat of his cruiser and found crack cocaine. Woods was indicted for possession of a controlled substance. After the trial court denied his request to suppress the evidence against him, Woods entered a conditional guilty plea and received a sentence of one year. This appeal followed.

Woods' sole issue on appeal is the trial court's order denying his suppression motion. He argues that Beall seized him without a warrant or probable cause and, therefore, his right to be free from unreasonable searches was violated. The trial court's findings are conclusive if supported by substantial evidence. Simpson v. Commonwealth, 834 S.W.2d 686 (Ky. 1992). However, we review *de novo* the determination of whether or not Woods was seized. Commonwealth v. Banks, 68 S.W.3d 347 (Ky. 2001). The trial court held an evidentiary hearing on Woods' motion to suppress, and Beall was the only witness to offer an account of the night in question.

Beall testified that he spotted Woods walking along Washington Street at 1:00 a.m. carrying a paper bag. Because it was unusual to see someone on foot at that hour, he stopped to ask how Woods was doing. Woods replied that he had been in an argument with his girlfriend and was walking home. Beall offered Woods a ride. Beall stated that he had previously given rides to any number of people who needed them and that Woods was free to refuse his offer and continue his trip on foot. Woods got into the back seat of the cruiser because Beall had a shotgun and other police equipment in the front passenger seat.

As he was driving Woods to Hickman Street, where Woods stated he had a place to stay, Beall asked Woods about the argument with his girlfriend. Woods told him that they lived together in Scott County. Because Woods' story seemed to be changing and he appeared a little nervous, Beall was concerned that there had been a domestic dispute and thought police in Scott County might be looking for Woods. He called to find out whether there were any outstanding warrants for Woods and found out that Woods had a Fayette County arrest warrant. Woods denied it; however, Beall verified that his social security number matched the warrant and told him he was under arrest.

While Beall was transporting Woods to the jail, he noticed Woods moving around in the back seat, and he refused to answer Beall's question about what he was doing. After

delivering Woods to the custody of the jailer, Beall searched his backseat and found crack cocaine wadded up in a one dollar bill. Woods denied that the crack was his. Beall stated that he checks his backseat every time he comes on duty and whenever someone has been riding in it. The trial court concluded that Beall was a credible witness and denied Woods' suppression motion.

Woods argues that he was, in fact, seized from the moment Beall stopped to talk to him. He contends that he did not feel like he could refuse Beall's offer of a ride and notes that the back of the police cruiser is behind a barrier with doors and windows that cannot be unlocked from inside. This contradicts Beall's testimony that he often gave people with no transportation a complimentary ride and that he would have not sought to detain Woods if he had refused to accept it. Further, Beall told the trial court that he had driven Woods past the police station and the jail while taking him towards Hickman Street. Beall stated that if he had any intention of arresting Woods prior to finding out about his outstanding warrant, he would have taken Woods directly to the jail. We also note that Beall's testimony was uncontroverted since Woods chose not to testify at the hearing. Based on the evidence before it, the trial court correctly found that Beall was not seized until he was arrested on the outstanding warrant. Finally, we note that

the evidence against Woods was not found pursuant to a search as he voluntarily abandoned the drugs in Beall's police cruiser.

For the foregoing reasons, the order of the Clark Circuit Court is affirmed.

ALL CONCUR.

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